



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

**REQUEST FOR PROPOSALS  
FOR  
STATE DISBURSEMENT UNIT**

**RFP # 34513-32119**

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## 1. INTRODUCTION

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The State of Tennessee, Department of Human Services, hereinafter referred to as the "State," issues this Request for Proposals (RFP) to define minimum contract requirements; solicit responses; detail response requirements; and, outline the State's process for evaluating responses and selecting a contractor to provide the needed goods or services.

Through this RFP, the State seeks to procure necessary goods or services at the most favorable, competitive prices and to give ALL qualified respondents, including those that are owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises, an opportunity to do business with the state as contractors, subcontractors or suppliers.

### Statement of Procurement Purpose

1.1. The State is seeking to contract for a State Disbursement Unit (SDU). The SDU, established in accordance with Tenn. Code Ann. § 36-5-114, is a processing center responsible for collecting and disbursing payments for all child support cases enforced by the Child Support Enforcement Program for the State of Tennessee pursuant to Title IV-D of the Social Security Act, 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, and for all child support cases not being enforced by the program in which the initial child support order was issued in the State on or after January 1, 1994. The estimated maximum liability of the resulting contract is projected to be between \$16,000,000.00 to \$18,000,000.00.

### 1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Attachment 6.6., *Pro Forma* Contract details the State's requirements:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Respondent must sign.

### 1.3. Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

### 1.4. RFP Communications

1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

**RFP # 34513-32119**

1.4.2. **Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

1.4.2.1. Prospective Respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

Michael S. Leitzke, Sourcing Analyst  
 Central Procurement Office  
 Tennessee Tower, 3rd Floor  
 312 Rosa L. Parks Avenue, Nashville, TN 37243  
 Telephone: 615-741- 5666  
[Michael.S.Leitzke@tn.gov](mailto:Michael.S.Leitzke@tn.gov)  
[tn.gov/generalservices/](http://tn.gov/generalservices/)

1.4.2.2. Notwithstanding the foregoing, Prospective Respondents may alternatively contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities, and small businesses as well as general, public information relating to this RFP (visit <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/godbe-general-contacts.html> for contact information); and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Jeffrey Blackshear  
 Tennessee Department of Human Services  
 15th Floor, Citizens Plaza Building  
 400 Deaderick Street  
 Nashville, TN 37243-1403  
 Telephone: (615) 313-5711  
[Jeffrey.Blackshear@tn.gov](mailto:Jeffrey.Blackshear@tn.gov)

- 1.4.3. Only the State's official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.
- 1.4.4. Potential Respondents must ensure that the State receives all written questions and comments, including questions and requests for clarification, no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to the State. The State assumes no responsibility for delays or delivery failures resulting from the Respondent's method of dispatch. Actual or digital "postmarking" of a communication or response to the State by a specified deadline is not a substitute for the State's actual receipt of a communication or response.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to RFP Section 1.7).
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State. For internet posting, please refer to the following website: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/supplier-information-/request-for-proposals--rfp--opportunities.html>.

- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent's obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

#### 1.5. **Assistance to Respondents With a Handicap or Disability**

Prospective Respondents with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Prospective Respondents may contact the Solicitation Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

#### 1.6. **Respondent Required Review & Waiver of Objections**

- 1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").
- 1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to the State no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Questions & Comments Deadline.

#### 1.7. **Notice of Intent to Respond**

Before the Notice of Intent to Respond Deadline detailed in the RFP Section 2, Schedule of Events, prospective Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate);
- a contact person's name and title; and
- the contact person's mailing address, telephone number, facsimile number, and e-mail address.

**A Notice of Intent to Respond creates no obligation and is not a prerequisite for submitting a response, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.**

#### 1.8. **Response Deadline**

A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events. The State will not accept late responses, and a Respondent's failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional security requirements with respect to packaging and delivery to the State of Tennessee. Respondents should be mindful of any potential delays due to security screening procedures, weather, or other filing delays whether foreseeable or unforeseeable.

## 2. RFP SCHEDULE OF EVENTS

2.1. The following RFP Schedule of Events represents the State's best estimate for this RFP.

EVENT	TIME (central time zone)	DATE
1. RFP Issued		November 16, 2018
2. Disability Accommodation Request Deadline	2:00 p.m.	November 21, 2018
3. Notice of Intent to Respond Deadline	2:00 p.m.	November 26, 2018
4. Written "Questions & Comments" Deadline	2:00 p.m.	November 29, 2018
5. State Response to Written "Questions & Comments"		December 10, 2018
6. Response Deadline	2:00 p.m.	December 17, 2018
7. State Completion of Technical Response Evaluations		December 20, 2018
8. State Opening & Scoring of Cost Proposals	2:00 p.m.	December 21, 2018
9. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	December 26, 2018
10. End of Open File Period		January 4, 2019
11. State sends contract to Contractor for signature		January 7, 2019
12. Contractor Signature Deadline	2:00 p.m.	January 15, 2019

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to section 1.7).

### 3. RESPONSE REQUIREMENTS

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#### 3.1. Response Form

A response to this RFP must consist of two parts, a Technical Response and a Cost Proposal.

- 3.1.1. **Technical Response.** RFP Attachment 6.2., Technical Response & Evaluation Guide provides the specific requirements for submitting a response. This guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

**NOTICE: A technical response must not include any pricing or cost information. If any pricing or cost information amounts of any type (even pricing relating to other projects) is included in any part of the technical response, the state may deem the response to be non-responsive and reject it.**

- 3.1.1.1. A Respondent must use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.
- 3.1.1.2. A response should be economically prepared, with emphasis on completeness and clarity. A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversized exhibits are permissible) and use a 12 point font for text. All response pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Response should correspond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a response to be non-responsive and reject it if:
  - a. the Respondent fails to organize and properly reference the Technical Response as required by this RFP and the RFP Attachment 6.2., Technical Response & Evaluation Guide; or
  - b. the Technical Response document does not appropriately respond to, address, or meet all of the requirements and response items detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide.

- 3.1.2. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

**NOTICE: If a Respondent fails to submit a cost proposal exactly as required, the State may deem the response to be non-responsive and reject it.**

- 3.1.2.1. A Respondent must only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.

- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period, including any renewals or extensions.
- 3.1.2.3. A Respondent must sign and date the Cost Proposal.
- 3.1.2.4. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response (as detailed in RFP Sections 3.2.3., *et seq.*).

## 3.2. Response Delivery

- 3.2.1. A Respondent must ensure that both the original Technical Response and Cost Proposal documents meet all form and content requirements, including all required signatures, as detailed within this RFP, as may be amended.

- 3.2.2. A Respondent must submit original Technical Response and Cost Proposal documents and copies as specified below.

- 3.2.2.1. One (1) original Technical Response paper document labeled:

**“RFP # 34513-32119 TECHNICAL RESPONSE ORIGINAL”**

and One (1) Technical Response each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive labeled:

**“RFP # 34513-32119 TECHNICAL RESPONSE COPY”**

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Response document and any digital copies may result in the State rejecting the proposal as non-responsive.

- 3.2.2.2. One (1) original Cost Proposal paper document labeled:

**“RFP # 34513-32119 COST PROPOSAL ORIGINAL”**

and one (1) copy in the form of a digital document in “PDF/XLS” format properly recorded on separate, blank, standard CD-R recordable disc or USB flash drive labeled:

**“RFP # 34513-32119 COST PROPOSAL COPY”**

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

- 3.2.3. A Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

- 3.2.3.1. The Technical Response original document and digital copies must be placed in a sealed package that is clearly labeled:

**“DO NOT OPEN... RFP # 34513-32119 TECHNICAL RESPONSE FROM  
[RESPONDENT LEGAL ENTITY NAME]”**

- 3.2.3.2. The Cost Proposal original document and digital copy must be placed in a separate, sealed package that is clearly labeled:

**“DO NOT OPEN... RFP # 34513-32119 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”**

- 3.2.3.3. The separately, sealed Technical Response and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

**“RFP # 34513-32119 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”**

- 3.2.3.4. A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address:

Michael S. Leitzke  
Central Procurement Office  
Tennessee Tower, 3rd Floor  
312 Rosa L. Parks Avenue  
Nashville, TN 37243

### 3.3. Response & Respondent Prohibitions

- 3.3.1. A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.2. A response must not restrict the rights of the State or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts the rights of the State or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.3. A response must not propose alternative goods or services (*i.e.*, offer services different from those requested and required by this RFP) unless expressly requested in this RFP. The State may consider a response of alternative goods or services to be non-responsive and reject it.
- 3.3.4. A Cost Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The State will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, the State will consider any such actions to be grounds for response rejection or contract termination.
- 3.3.5. A Respondent must not provide, for consideration in this RFP process or subsequent contract negotiations, any information that the Respondent knew or should have known was materially incorrect. If the State determines that a Respondent has provided such incorrect information, the State will deem the Response non-responsive and reject it.
- 3.3.6. A Respondent must not submit more than one Technical Response and one Cost Proposal in response to this RFP, except as expressly requested by the State in this RFP. If a Respondent submits more than one Technical Response or more than one Cost Proposal, the State will deem all of the responses non-responsive and reject them.
- 3.3.7. A Respondent must not submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part

of their responses (provided that the subcontractor does not also submit a response as a prime contractor).

- 3.3.8. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this RFP:

3.3.8.1. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;

3.3.8.2. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and

3.3.8.3. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.

#### 3.4. **Response Errors & Revisions**

A Respondent is responsible for any and all response errors or omissions. A Respondent will not be allowed to alter or revise response documents after the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

#### 3.5. **Response Withdrawal**

A Respondent may withdraw a submitted response at any time before the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Respondent representative. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline. After the Response Deadline, a Respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

#### 3.6. **Additional Services**

If a response offers goods or services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Respondent must not propose any additional cost amounts or rates for additional goods or services. Regardless of any additional services offered in a response, the Respondent's Cost Proposal must only record the proposed cost as required in this RFP and must not record any other rates, amounts, or information.

**NOTICE: If a Respondent fails to submit a Cost Proposal exactly as required, the State may deem the response non-responsive and reject it.**

#### 3.7. **Response Preparation Costs**

The State will not pay any costs associated with the preparation, submittal, or presentation of any response.

#### 4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

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##### 4.1. RFP Amendment

The State at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.7). A response must address the final RFP (including its attachments) as amended.

##### 4.2. RFP Cancellation

The State reserves the right, at its sole discretion, to cancel the RFP or to cancel and reissue this RFP in accordance with applicable laws and regulations.

##### 4.3. State Right of Rejection

- 4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all responses.
- 4.3.2. The State may deem as non-responsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If the State waives variances in a response, such waiver shall not modify the RFP requirements or excuse the Respondent from full compliance, and the State may hold any resulting Contractor to strict compliance with this RFP.

##### 4.4. Assignment & Subcontracting

- 4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.
- 4.4.2. If a Respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications & Experience Item B.14.).
- 4.4.3. Subcontractors identified within a response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.
- 4.4.4. After contract award, a Contractor may only substitute an approved subcontractor at the discretion of the State and with the State's prior, written approval.
- 4.4.5. Notwithstanding any State approval relating to subcontracts, the Respondent who is awarded a contract pursuant to this RFP will be the prime contractor and will be responsible for all work under the Contract.

##### 4.5. Right to Refuse Personnel or Subcontractors

The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing goods or services in the performance of a contract resulting from this RFP. The State will document in writing the reason(s) for any rejection of personnel.

#### 4.6. **Insurance**

The State will require the awarded Contractor to provide a Certificate of Insurance issued by an insurance company licensed or authorized to provide insurance in the State of Tennessee. Each Certificate of Insurance shall indicate current insurance coverages meeting minimum requirements as may be specified by this RFP. A failure to provide a current, Certificate of Insurance will be considered a material breach and grounds for contract termination.

#### 4.7. **Professional Licensure and Department of Revenue Registration**

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as a part of a response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any Respondent to submit evidence of proper licensure.
- 4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. For purposes of this registration requirement, the Department of Revenue may be contacted at: [TN.Revenue@tn.gov](mailto:TN.Revenue@tn.gov).

#### 4.8. **Disclosure of Response Contents**

- 4.8.1. All materials submitted to the State in response to this RFP shall become the property of the State of Tennessee. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all response information, including both technical and cost information, in confidence during the evaluation process.
- 4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

#### 4.9. **Contract Approval and Contract Payments**

- 4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.
- 4.9.2. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Respondent with the apparent best-evaluated response or any other Respondent. State obligations pursuant to a contract award shall commence only after the Contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.
- 4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.

- 4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract Effective Date or after the Contract Term.
- 4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).
- 4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

#### 4.10. **Contractor Performance**

The Contractor who is awarded a contract will be responsible for the delivery of all acceptable goods or the satisfactory completion of all services set out in this RFP (including attachments) as may be amended. All goods or services are subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that goods delivered or services rendered are in compliance with the Contract, and the Contractor must cooperate with such efforts.

#### 4.11. **Contract Amendment**

After Contract award, the State may request the Contractor to deliver additional goods or perform additional services within the general scope of the Contract and this RFP, but beyond the specified Scope, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional goods or services. The Contractor must respond to the State with a time schedule for delivering the additional goods or accomplishing the additional services based on the compensable units included in the Contractor's response to this RFP. If the State and the Contractor reach an agreement regarding the goods or services and associated compensation, such agreement must be effected by means of a contract amendment. Further, any such amendment requiring additional goods or services must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes, rules, policies and procedures of the State of Tennessee. The Contractor must not provide additional goods or render additional services until the State has issued a written contract amendment with all required approvals.

#### 4.12. **Severability**

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Respondents will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

#### 4.13. **Next Ranked Respondent**

The State reserves the right to initiate negotiations with the next ranked Respondent should the State cease doing business with any Respondent selected via this RFP process.

## 5. EVALUATION & CONTRACT AWARD

### 5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience, technical approach, and cost in the evaluation of responses and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each response deemed by the State to be responsive.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
<b>General Qualifications &amp; Experience</b> (refer to RFP Attachment 6.2., Section B)	<b>30</b>
<b>Technical Qualifications, Experience &amp; Approach</b> (refer to RFP Attachment 6.2., Section C)	<b>40</b>
<b>Cost Proposal</b> (refer to RFP Attachment 6.3.)	<b>30</b>

### 5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP not necessarily to the Respondent offering the lowest cost, but rather to the Respondent deemed by the State to be responsive and responsible who offers the best combination of attributes based upon the evaluation criteria. ("Responsive Respondent" is defined as a Respondent that has submitted a response that conforms in all material respects to the RFP. "Responsible Respondent" is defined as a Respondent that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Response Evaluation.** The Solicitation Coordinator and the Proposal Evaluation Team (consisting of three (3) or more State employees) will use the RFP Attachment 6.2., Technical Response & Evaluation Guide to manage the Technical Response Evaluation and maintain evaluation records.

- 5.2.1.1. The State reserves the right, at its sole discretion, to request Respondent clarification of a Technical Response or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the response identified by the State. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.
- 5.2.1.2. The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A— Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team's determination of whether:
  - a. the response adequately meets RFP requirements for further evaluation;
  - b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
  - c. the State will determine the response to be non-responsive to the RFP and reject it.
- 5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Response (that is responsive to the RFP) against the evaluation criteria in this RFP,

and will score each in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide.

- 5.2.1.4. For each response evaluated, the Solicitation Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, and record each average as the response score for the respective Technical Response section.
- 5.2.1.5. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Proposal Evaluation Team identifies any Respondent that does not meet the responsive and responsible thresholds such that the team would not recommend the Respondent for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.
- 5.2.2. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by the State to be responsive and responsible and calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.
- 5.2.3. **Clarifications and Negotiations.** The State reserves the right to award a contract on the basis of initial responses received, therefore, each response shall contain the Respondent's best terms and conditions from a technical and cost standpoint. The State reserves the right to conduct clarifications or negotiations with one or more Respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.
  - 5.2.3.1. Clarifications: The State may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those issues identified during one or multiple clarification rounds. Each clarification sought by the State may be unique to an individual Respondent, provided that the process is conducted in a manner that supports fairness in response improvement.
  - 5.2.3.2. Negotiations: The State may elect to negotiate with one or more Respondents by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds or no negotiations at all.
  - 5.2.3.3. Cost Negotiations: All Respondents, selected for negotiation by the State, will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual Respondent pricing. During target price negotiations, Respondents are not obligated to reduce their pricing to target prices, but no Respondent is allowed to increase prices.
  - 5.2.3.4. If the State determines that it is unable to successfully negotiate a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into contract negotiations with the next apparent best evaluated Respondent.

- 5.2.4. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.5., Score Summary Matrix).

### 5.3. Contract Award Process

- 5.3.1 The Solicitation Coordinator will submit the Proposal Evaluation Team determinations and scores to the head of the procuring agency for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.3.2. The procuring agency head will determine the apparent best-evaluated Response. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the head of the procuring agency must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.
- 5.3.3. The State will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

**NOTICE: The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the apparent best-evaluated Respondent or any other Respondent.**

- 5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The Contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed Contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.
- 5.3.5. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to Contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP and contractor selection process.
- 5.3.6. If the State determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.

**RFP # 34513-32119 STATEMENT OF CERTIFICATIONS AND ASSURANCES**

The Respondent must sign and complete the Statement of Certifications and Assurances below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.1.).

**The Respondent does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:**

1. The Respondent will comply with all of the provisions and requirements of the RFP.
2. The Respondent will provide all services as defined in the Scope of the RFP Attachment 6.6., *Pro Forma* Contract for the total Contract Term.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma* Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the Contract.
5. The Respondent will comply with:
  - (a) the laws of the State of Tennessee;
  - (b) Title VI of the federal Civil Rights Act of 1964;
  - (c) Title IX of the federal Education Amendments Act of 1972;
  - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
  - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
10. The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106." For reference purposes, the list is currently available online at: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-/public-information-library.html>.

**By signing this Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Respondent (if an individual) or the Respondent's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the Respondent.**

**DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT**

**SIGNATURE:**

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**PRINTED NAME & TITLE:**

---

**DATE:**

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**RESPONDENT LEGAL ENTITY  
NAME:**

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**TECHNICAL RESPONSE & EVALUATION GUIDE**

**SECTION A: MANDATORY REQUIREMENTS.** The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review the response to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the response and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFP requirements.

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Response Page # (Respondent completes)</b>	<b>Item Ref.</b>	<b>Section A— Mandatory Requirement Items</b>	<b>Pass/Fail</b>
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i> ).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a subcontractor) (refer to RFP Section 3.3.).	
	<b>A.1.</b>	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	<b>A.2.</b>	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest ( <i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict.  NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	<b>A.3.</b>	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	<b>A.4.</b>	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	<b>A.5.</b>	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report	

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Response Page # (Respondent completes)</b>	<b>Item Ref.</b>	<b>Section A— Mandatory Requirement Items</b>	<b>Pass/Fail</b>
		number without the full report is insufficient and will <u>not</u> be considered responsive.)	
	<b>A.6</b>	<p>Provide a valid, Certificate of Insurance that is verified and dated within the last six (6) months and which details all of the following:</p> <ul style="list-style-type: none"> <li>(a) Insurance Company</li> <li>(b) Proposer's Name and Address as the Insured</li> <li>(c) Policy Number</li> <li>(d) The following minimum insurance coverage: <ul style="list-style-type: none"> <li>(i) Comprehensive Commercial General Liability with a bodily injury/property damage combined single limit not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate;</li> </ul> </li> <li>(e) The following information applicable to each type of insurance coverage: <ul style="list-style-type: none"> <li>(i) Coverage Description,</li> <li>(ii) Exceptions and Exclusions,</li> <li>(iii) Policy Effective Date,</li> <li>(iv) Policy Expiration Date, and</li> <li>(v) Limit(s) of Liability.</li> </ul> </li> </ul>	
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>			

## RFP ATTACHMENT 6.2. — SECTION B

## TECHNICAL RESPONSE &amp; EVALUATION GUIDE

**SECTION B: GENERAL QUALIFICATIONS & EXPERIENCE.** The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign one score for all responses to Section B— General Qualifications & Experience Items.

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
	<b>B.1.</b>	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the response.
	<b>B.2.</b>	Describe the Respondent's form of business ( <i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	<b>B.3.</b>	Detail the number of years the Respondent has been in business.
	<b>B.4.</b>	Briefly describe how long the Respondent has been providing the goods or services required by this RFP.
	<b>B.5.</b>	Describe the Respondent's number of employees, client base, and location of offices.
	<b>B.6.</b>	Provide a statement of whether there have been any mergers, acquisitions, or change of control of the Respondent within the last ten (10) years. If so, include an explanation providing relevant details.
	<b>B.7.</b>	Provide a statement of whether the Respondent or, to the Respondent's knowledge, any of the Respondent's employees, agents, independent contractors, or subcontractors, involved in the delivery of goods or performance of services on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.
	<b>B.8.</b>	Provide a statement of whether, in the last ten (10) years, the Respondent has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	<b>B.9.</b>	Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFP.  NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.
	<b>B.10.</b>	Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFP.  NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the

## RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		Respondent to submit proof of license for each person or entity that renders such opinions.
	B.11.	Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).
	B.12.	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFP.
	B.13.	Provide a personnel roster listing the names of key people who the Respondent will assign to meet the Respondent's requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Respondent, and employment history.
	B.14.	Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail: <ul style="list-style-type: none"> <li>(a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;</li> <li>(b) a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; <u>and</u></li> <li>(c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP.</li> </ul>
	B.15.	Provide documentation of the Respondent's commitment to diversity as represented by the following: <ul style="list-style-type: none"> <li>(a) <u>Business Strategy</u>. Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please also include a list of the Respondent's certifications as a diversity business, if applicable.</li> <li>(b) <u>Business Relationships</u>. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please include the following information: <ul style="list-style-type: none"> <li>(i) contract description;</li> <li>(ii) contractor name and ownership characteristics (i.e., ethnicity, gender, service-disabled veteran-owned or persons with disabilities);</li> <li>(iii) contractor contact name and telephone number.</li> </ul> </li> <li>(c) <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information: <ul style="list-style-type: none"> <li>(i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and <b>DO NOT INCLUDE DOLLAR AMOUNTS</b>);</li> <li>(ii) anticipated goods or services contract descriptions;</li> <li>(iii) names and ownership characteristics (i.e., ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.</li> </ul> </li> </ul>

## RFP ATTACHMENT 6.2. — SECTION B (continued)

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
		<p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at <a href="https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810">https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810</a> for more information.</p> <p>(d) <u>Workforce</u>. Provide the percentage of the Respondent's total current employees by ethnicity and gender.</p> <p>NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises and who offer a diverse workforce.</p>
	<b>B.16.</b>	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:</p> <ul style="list-style-type: none"> <li>(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;</li> <li>(b) the procuring State agency name;</li> <li>(c) a brief description of the contract's scope of services;</li> <li>(d) the contract period; and</li> <li>(e) the contract number.</li> </ul> <p>NOTES:</p> <ul style="list-style-type: none"> <li>▪ Current or prior contracts with the State are <u>not</u> a prerequisite and are <u>not</u> required for the maximum evaluation score, and the existence of such contracts with the State will <u>not</u> automatically result in the addition or deduction of evaluation points.</li> <li>▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.</li> </ul>
	<b>B.17.</b>	<p>Provide customer references from individuals who are <u>not</u> current or former State employees for projects similar to the goods or services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> <li>▪ two (2) accounts Respondent currently services that are similar in size to the State; <u>and</u></li> <li>▪ three (3) completed projects.</li> </ul> <p>References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which <u>must</u> be used and completed, is provided at RFP Attachment 6.4. References that are not completed as required may be deemed non-responsive and may not be considered.</p> <p>The Respondent will be <u>solely</u> responsible for obtaining fully completed reference questionnaires and including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires follow the process below.</p> <ul style="list-style-type: none"> <li>(a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.</li> <li>(b) Send a reference questionnaire and new, standard #10 envelope to each reference.</li> <li>(c) Instruct the reference to:             <ul style="list-style-type: none"> <li>(i) complete the reference questionnaire;</li> <li>(ii) sign and date the completed reference questionnaire;</li> <li>(iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;</li> <li>(iv) sign his or her name in ink across the sealed portion of the envelope; and</li> </ul> </li> </ul>

## RFP ATTACHMENT 6.2. — SECTION B (continued)

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
		<p>(v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response).</p> <p>(d) <u>Do NOT open the sealed references upon receipt.</u></p> <p>(e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.</p> <p>NOTES:</p> <ul style="list-style-type: none"> <li>▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required.</li> <li>▪ The State will not review more than the number of required references indicated above.</li> <li>▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references.</li> <li>▪ The State is under <u>no</u> obligation to clarify any reference information.</li> </ul>
	<b>B.18.</b>	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <p>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;</p> <p>(b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;</p> <p>(c) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and</p> <p>(d) has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.</p>
	<b>B.19.</b>	<p>Documentation that the Proposer is currently engaged, or has been engaged within the past two (2) years, in the successful operation of a child support collection/disbursement unit for a government entity, with a minimum processing volume of 3,500,000 transactions per year (approximately 291,000 per month). (Concurrent operation of child support collection/disbursement units in multiple states with a cumulative processing volume totaling 3,500,000 transactions per year shall not satisfy this requirement.)</p>
		<p><b>SCORE (for <u>all</u> Section B—Qualifications &amp; Experience Items above):</b> (maximum possible score = 30)</p>
State Use – Evaluator Identification:		

## RFP ATTACHMENT 6.2. — SECTION C

## TECHNICAL RESPONSE &amp; EVALUATION GUIDE

**SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH.** The Respondent must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

0 = little value

1 = poor

2 = fair

3 = satisfactory

4 = good

5 = excellent

The Solicitation Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item's Raw Weighted Score for purposes of calculating the section score as indicated.

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Respondent's understanding of the State's requirements and project schedule.		3	
	C.2.	Provide a narrative that illustrates how the Respondent will complete the scope of services, accomplish required objectives, and meet the State's project schedule.		4	
	C.3.	Provide a draft Implementation Plan based on the Project Management Body of Knowledge ("PMBOK®") Guide and Standards published by the Project Management Institute . The Plan must address:  1) The activities required for implementation 2) The schedule for implementation 3) Roles and responsibilities for implementation 4) Potential risks and mitigation strategies 5) A description of the mechanisms for reporting status to the State, and coordinating and resolving issues related to the implementation.		3	
	C.4.	A narrative describing the Proposer's staffing plan for the provision of services under this procurement. This narrative must include the number of positions and position descriptions for staff that are direct employees of the Proposer, as well as the number of positions and position descriptions for staff provided by any staffing vendor(s). The narrative must also include the Proposer's definition of the term <i>key people</i> , as it relates to Items B.12. and B.13. of RFP Attachment 6.2. Section B—General Qualifications & Experience Items		3	
	C.5.	Provide the Proposer's documented Disaster Recovery / Business Continuity Plan. The Plan must address: 1) Approach 2) Roles / Responsibilities 3) Identification of components 4) Method of avoiding a disaster 5) Disaster declaration procedures and processes 6) Switch to disaster recovery site 7) Restoring to primary site		2	
	C.6.	<b>Approach to Operations:</b> 1) Provide a detailed description for providing the SDU		3	

## RFP ATTACHMENT 6.2. — SECTION C (continued)

<b>RESPONDENT LEGAL ENTITY NAME:</b>					
<b>Response Page # (Respondent completes)</b>	<b>Item Ref.</b>	<b>Section C— Technical Qualifications, Experience &amp; Approach Items</b>	<b>Item Score</b>	<b>Evaluation Factor</b>	<b>Raw Weighted Score</b>
		<p>services required by the pro forma contract in RFP Attachment 6.6. Include descriptions of automated systems, equipment, and software to be used by the Contractor. Also include minimum specifications for computer hardware required for proposed enterprise application software.</p> <p>2) Provide a detailed description for providing the CPU services required by the pro forma contract in RFP Attachment 6.6. Include descriptions of automated systems, equipment, and software to be used by the Contractor. Also include minimum specifications for computer hardware required for proposed enterprise application software.</p>			
	<b>C.7.</b>	Provide a brief narrative describing the Proposer's plan for the training of its staff assigned to the project. The narrative should detail the Proposer's plan for training during the initial stages of the project as well as the strategy for ongoing training over the term of the Contract.		<b>4</b>	
	<b>C.8.</b>	<p>Provide a description of how the Proposer will provide quality assurance. Include the following areas:</p> <p>1) Use of performance monitoring tools and project management procedures to support ongoing operations;</p> <p>2) Formal status reporting procedures and schedules;</p> <p>3) Issue identification, tracking, and reporting procedures</p>		<b>5</b>	
	<b>C.9.</b>			<b>0</b>	
<p><i>The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i></p>					<p><b>Total Raw Weighted Score:</b> (sum of Raw Weighted Scores above)</p>
<p><b>Total Raw Weighted Score</b></p> <hr/> <p><b>Maximum Possible Raw Weighted Score</b> (i.e., 5 x the sum of item weights above)</p>					<p><b>X 40</b> (maximum possible score)</p> <p><b>= SCORE:</b></p>
<p><i>State Use – Evaluator Identification:</i></p>					
<p><i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i></p>					

**RFP ATTACHMENT 6.3.****COST PROPOSAL & SCORING GUIDE****NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED**

**COST PROPOSAL SCHEDULE—** The Cost Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

**NOTICE:** The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *Pro Forma* Contract section C.1. (refer to RFP Attachment 6.6.), "The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the Respondent.

<b>RESPONDENT SIGNATURE:</b>			
<b>PRINTED NAME &amp; TITLE:</b>			
<b>DATE:</b>			
<b>RESPONDENT LEGAL ENTITY NAME:</b>			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
SDU Transaction Fee Contract Year 1 (March 1, 2019 – February 29, 2020)	\$NUMBER per receipt processed	5 million	
SDU Transaction Fee Contract Year 2 (March 1, 2020 – February 28, 2021)	\$NUMBER per receipt processed	5 million	
SDU Transaction Fee Contract Year 3 (March 1, 2021 – February 28, 2022)	\$NUMBER per receipt processed	5 million	
SDU Transaction Fee Contract Year 4 (March 1, 2022 – February 28, 2023)	\$NUMBER per receipt processed	5 million	

## RFP ATTACHMENT 6.3. (continued)

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
SDU Transaction Fee Contract Year 5 (March 1, 2023 – February 29, 2024)	\$NUMBER per receipt processed	5 million	
Annual Customer Payment Information Operation Contract Year 1 (March 1, 2019 – February 29, 2020)	\$NUMBER per Contract Year	1	
Annual Customer Payment Information Operation Contract Year 2 (March 1, 2020 – February 28, 2021)	\$NUMBER per Contract Year	1	
Annual Customer Payment Information Operation Contract Year 3 (March 1, 2021 – February 28, 2022)	\$NUMBER per Contract Year	1	
Annual Customer Payment Information Operation Contract Year 4 (March 1, 2022 – February 28, 2023)	\$NUMBER per Contract Year	1	
Annual Customer Payment Information Operation Contract Year 5 (March 1, 2023 – February 29, 2024)	\$NUMBER per Contract Year	1	
<b>EVALUATION COST AMOUNT</b> (sum of evaluation costs above): The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			
<b>lowest evaluation cost amount from <u>all</u> proposals</b> <div style="display: flex; justify-content: space-between; align-items: center;"> <div>_____</div> <div><b>x 30</b></div> <div><b>= SCORE:</b></div> </div> <div style="display: flex; justify-content: space-between; align-items: center;"> <div><b>evaluation cost amount being evaluated</b></div> <div><b>(maximum section score)</b></div> </div>			
State Use – Solicitation Coordinator Signature, Printed Name & Date:			

**REFERENCE QUESTIONNAIRE**

**The standard reference questionnaire provided on the following pages of this attachment MUST be completed by all individuals offering a reference for the Respondent.**

The Respondent will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Response & Evaluation Guide, Section B, Item B.17.), and for enclosing the sealed reference envelopes within the Respondent's Technical Response.

**RFP # 34513-32119 REFERENCE QUESTIONNAIRE****REFERENCE SUBJECT:** RESPONDENT NAME (completed by Respondent before reference is requested)

The "reference subject" specified above, intends to submit a response to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such response, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire;
- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

(1) **What is the name of the individual, company, organization, or entity responding to this reference questionnaire?**

(2) **Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.**

<b>NAME:</b>	
<b>TITLE:</b>	
<b>TELEPHONE #</b>	
<b>E-MAIL ADDRESS:</b>	

(3) **What goods or services does/did the reference subject provide to your company or organization?**

(4) **What is the level of your overall satisfaction with the reference subject as a vendor of the goods or services described above?**

*Please respond by circling the appropriate number on the scale below.*

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
least satisfied						most satisfied

## RFP # 34513-32119 REFERENCE QUESTIONNAIRE — PAGE 2

If you circled 3 or less above, what could the reference subject have done to improve that rating?

- (5) If the goods or services that the reference subject provided to your company or organization are completed, were the goods or services provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (6) If the reference subject is still providing goods or services to your company or organization, are these goods or services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (7) How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?
- (8) In what areas of goods or service delivery does/did the reference subject excel?
- (9) In what areas of goods or service delivery does/did the reference subject fall short?
- (10) What is the level of your satisfaction with the reference subject's project management structures, processes, and personnel?

*Please respond by circling the appropriate number on the scale below.*

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
least satisfied						most satisfied

What, if any, comments do you have regarding the score selected above?

RFP # 34513-32119 REFERENCE QUESTIONNAIRE — PAGE 3

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- (11) Considering the staff assigned by the reference subject to deliver the goods or services described in response to question 3 above, how satisfied are you with the technical abilities, professionalism, and interpersonal skills of the individuals assigned?

*Please respond by circling the appropriate number on the scale below.*

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
least satisfied						most satisfied

What, if any, comments do you have regarding the score selected above?

- (12) Would you contract again with the reference subject for the same or similar goods or services?

*Please respond by circling the appropriate number on the scale below.*

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
least satisfied						most satisfied

What, if any, comments do you have regarding the score selected above?

**REFERENCE SIGNATURE:**

(by the individual completing this  
request for reference information)

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(must be the same as the signature across the envelope seal)

**DATE:**

## SCORE SUMMARY MATRIX

	RESPONDENT NAME		RESPONDENT NAME		RESPONDENT NAME	
<b>GENERAL QUALIFICATIONS &amp; EXPERIENCE</b> (maximum: 30)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
	<b>AVERAGE:</b>		<b>AVERAGE:</b>		<b>AVERAGE:</b>	
<b>TECHNICAL QUALIFICATIONS, EXPERIENCE &amp; APPROACH</b> (maximum: 40)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
	<b>AVERAGE:</b>		<b>AVERAGE:</b>		<b>AVERAGE:</b>	
<b>COST PROPOSAL</b> (maximum: 30)	<b>SCORE:</b>		<b>SCORE:</b>		<b>SCORE:</b>	
<b>TOTAL RESPONSE EVALUATION SCORE:</b> (maximum: 100)						

Solicitation Coordinator Signature, Printed Name &amp; Date:

**RFP # 34513-32119 *PRO FORMA* CONTRACT**

The *Pro Forma* Contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

**CONTRACT**  
**BETWEEN THE STATE OF TENNESSEE,**  
**DEPARTMENT OF HUMAN SERVICES**  
**AND**  
**CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of Human Services ("State") and **Contractor Legal Entity Name** ("Contractor") is for the provision of services for operation of the Child Support State Disbursement Unit and Customer and Employer Information Unit, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.**

Contractor Place of Incorporation or Organization: **Location**

Contractor Edison Registration ID # **Number**

**A. SCOPE:**

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2. The Contractor shall be responsible for maintaining and operating a State Disbursement Unit ("SDU") and Customer Payment Information Unit ("CPU") for the Child Support Enforcement Program for the state of Tennessee ("Child Support Enforcement Program") in accordance with the provisions of: § Section 312 of Public Law 104-193 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Title IV-D, § 4548, of the Social Security Act, at 42 U.S.C.A, § 654b, and applicable federal and Tennessee law rules, and regulations. The initial establishment of the operation shall be in accordance with the draft Implementation Plan (the "Plan") provided in the Technical Proposal associated with the procurement of this Contract. A final version of the Plan must be established in consultation with, and approved in writing by, the State. Failure by the Contractor to establish an approved final implementation plan may, at the sole discretion of the State, result in immediate termination of this Contract.

Within 30 days following execution of this Contract, the Contractor shall submit the Plan for approval by the State which details the proposed interface, customized software, integrated system testing, equipment procurement, and physical site requirements, and proposed accounting procedures and a training schedule.

A.3. The Contractor shall be responsible for processing receipt of all child support payments made to the SDU timely and accurately and providing efficient and effective operation of the CPU.

A.4. The Contractor shall comply with State telecommunications protocols and file standards utilized in file transfer interfaces and in the access to State systems as dictated by the State.

A.5. The Contractor shall ensure both the physical and systems security of CPU and SDU operations.

A.6. The Contractor shall provide a Security Plan describing the systems and procedures to ensure the physical and systems security and confidentiality of child support records. Such Plan shall address compliance with Internal Revenue Service, Publication 1075 and security systems and procedures in place to protect the hardware, network, software and data utilized in performing services under this Contract. The Plan must be submitted for approval of the State within twenty (20) calendar days following the Contract award and shall be reviewed and amended as needed or required by the Contractor on an annual basis and submit any changes to the State for approval.

- A.7. The Contractor shall provide to the State, no later than May 30, 2019, a tested version of the Disaster Recovery/ Business Continuity Plan submitted by Contractor with the Technical Proposal in response to RFP #34513-32119. The tested version must be specific to the Contractor's SDU and CPU Operation in Tennessee, and must include a report documenting the outcome of testing. The Contractor shall notify the State within forty-five (45) calendar days following any subsequent alteration(s) to the Contractor's documented and tested Disaster Recovery/Business Continuity Plan. All such alterations shall be subject to written approval of the State.
- A.8. The Contractor shall maintain office hours sufficient to ensure that all requirements of this Contract are met. At a minimum, the Contractor shall be open each Business Day between the hours of 7:00 a.m. to 4:30 p.m. Central Time.

#### State Disbursement Unit Operation

- A.9. The Contractor shall accept web and phone payments to include credit and debit cards, as well as payments in the form of cash, personal check, cashier's check, certified check, money order, and electronic payments of all types. The Contractor shall ensure that telephone and web payments shall operate: (1) in a fully self-service environment with no need for intervention by Contractor staff; (2) available twenty-four (24) hours per day, seven (7) days per week; and (3) comply with applicable standards of the Payment Card Industry Security Standards Council. Further, the Contractor shall provide ongoing marketing efforts to ensure that: (1) the parties legally responsible for paying child support pursuant to a court order ("obligors"), the parties to whom child support is owed pursuant to a court order ("obligees"), and employers are regularly informed of available services and procedures.
- A.10. The Contractor shall process all payments designated by the State, including payments for child support originating from outside Tennessee.
- A.11. The Contractor shall process all payments from employers, including payments for multiple obligors.
- A.12. The Contractor shall receipt payments from obligors and post each payment to the correct obligors' account in the State's Child Support Enforcement Programs system in a timely manner. The Contractor shall ensure that the processing of the obligors' payment occurs when either: (1) payments have been applied to the correct obligor's account in the State's Child Support Enforcement Program system and have been deposited into the bank account designated by the State; or (2) the payer has been notified that sufficient information has not been received and the payor has further information required to accurately record and process the child support payment has been requested. The Contractor shall ensure that payments containing incomplete documentation are identified in the State's Child Support Enforcement Program system as in processing suspense pending further documentation or clarification by the payer necessary to accurately record and process the child support payment. The Contractor shall post and deposit payments on the day they are received.
- A.13. The Contractor shall transmit collections and correspondence information electronically to the State's Child Support Enforcement Program system daily by 5:00 p.m. Central Time.
- A.14. The Contractor shall deposit all receipts into a bank account designated by the State and perform a daily reconciliation between deposits and amounts posted to the State's Child Support Enforcement Program system. Documentation of reconciliations shall be available to the State upon request.
- A.15. The Contractor shall provide the actual date of receipt in the daily receipt transmission file to be used as the effective date and shall notify the State by 4:15 p.m. central standard time in the event that it is unable to transmit collections information to the State for a particular business day.
- A.16. The Contractor shall, in the course of processing payments, image all payments and any ancillary

documentation. The Contractor shall ensure the legibility of all imaged documents.

- A.17. The Contractor shall provide, at no additional cost to the State, web-based access to all imaged documents. The Contractor shall index all documents in a fashion that is easily searchable and retrievable by the State.
- A.18. The Contractor shall ensure that the following data elements are provided to the State's child support enforcement system for each receipt each day.
  - a. Case ID number;
  - b. Court number;
  - c. Docket number;
  - d. Receipt date;
  - e. Check number, if applicable;
  - f. Collection amount;
  - g. Payor name;
  - h. Payment type;
  - i. Payment source; and
  - j. Receipt type.
- A.19. The Contractor shall perform quality control on all payments to ensure that documents being processed are adequate and errors are identified and addressed. This includes, but is not limited to, the following:
  - a. Agreement of numeric and written check amounts;
  - b. Postdated negotiable documents;
  - c. Stale dated negotiable documents;
  - d. Personal or employer checks with no signature;
  - e. Blank or incorrect payee line on negotiable document;
  - f. Dollar amount discrepancy between check and source document;
  - g. Payment Coupon or Employer Turnaround Document with no payment;
  - h. Payment without Remittance Coupon or Employer Listing;
  - i. Altered dollar amounts; and
  - j. Non-custodial parents [parents who do not have physical custody of a minor child pursuant to a child custody determination ("NCPs")] with multiple cases to ensure proper posting to appropriate cases.
- A.20. The Contractor shall, upon receipt of payments containing insufficient identification information, take necessary steps to obtain required identification information. The Contractor shall document all steps taken to secure identifying information during an Information Recovery Period of ten (10) Business Days (days other than Saturday, Sunday or State-recognized public or bank holiday).
  - a. Unresolved identification issues shall be forwarded by the Contractor to the State following the ten (10)-day Information Recovery Period, accompanied by documentation of the steps taken to secure identifying information. At a minimum, the Contractor shall have performed State Child Support Enforcement Program research, data base matches, made an effort to contact the sender of the payment, and contacted the local IV-D Child Support Enforcement office in the area from which the payment came before the payment is to be classified as "unidentified."
  - b. During the Information Recovery Period of ten (10) Business Days, the Contractor shall meet or exceed the following timeliness standards when there is insufficient information to process payments when they are initially submitted

- (1) Ninety-seven percent (97%) identified by 4:30 p.m. Central Standard Time of the first Business Day;
- (2) Ninety-nine percent (99%) identified by 4:30 p.m. Central Standard Time of the third Business Day;
- (3) Ninety-nine and seven tenths percent (99.7%) by 4:30 p.m. Central Standard Time of the tenth Business Day.

In the event that the Contractor does not meet the timeliness standards provided in this Section, the Contractor shall pay liquidated damages to the State in the amounts specified in Attachment A of this Contract.

- A.21. The Contractor shall, to the greatest extent possible, utilize electronic check processing and deposits in accordance with National Automated Clearinghouse Association ("NACHA") Operating Rules and Federal Reserve's Regulation E.
- A.22. The Contractor shall ensure that any checks or money orders received shall be immediately endorsed with the following notation: "FOR DEPOSIT ONLY - STATE OF TENNESSEE - [ACCOUNT NUMBER]" A State of Tennessee Certification of Deposit and deposit slip shall be prepared and sent to Department of Human Services (DHS) Child Support Fiscal Services for each deposit made. These documents shall be sent on the day of deposit or the next morning if the deposit was made after 4:30 p.m. Central Standard Time
- A.23. The Contractor shall convert all foreign currency into U.S. dollars prior to processing and deposit of the funds. All conversions must be made each day by 4:30 p.m. Central Standard Time,
- A.24. The Contractor shall utilize a State-provided post office box to receive all child support payments and corresponding information.
- A.25. The Contractor shall, on a daily basis, electronically forward to parties designated by the State, correspondence received in the post office box that is not payment related.
- A.26. The Contractor shall ensure that mail is picked up daily and in time to ensure that timelines specified by the State are met.
- A.27. The Contractor shall ensure that all registered, certified, special delivery and other mail requiring special handling is signed for with a legible signature. A log of these specially handled mail receipts shall be maintained by the Contractor and provided to DHS upon request.
- A.28. The Contractor shall provide the capability for employers and non-custodial parents to make secure web-based child support payments. The Contractor shall provide a web-based solution that is capable of responding to inquiries concerning payments processed by the SDU, using multiple engagement methods, including site content-and live chat and shall be subject to the approval of the State.
  - a. The Contractor shall provide all necessary hardware and software to support web based child support payments.
  - b. The web based payment solution shall accommodate both transactions utilizing Automated Clearinghouse (ACH) standards and credit and/or debit card payments.
  - c. The web based payment solution shall offer the option for *one* time and reoccurring automatic withdrawals from payor bank accounts.

- d. The Contractor shall ensure the website used for web-based child support payments utilizes a security standard including appropriate encryption methods, user ID and personal identification number (PIN) processes and other security measures deemed necessary and approved by the State.
  - e. The Contractor shall ensure that any merchant vendor e-costs associated with a web based payment shall not be borne by the State.
- A.29. The Contractor shall send and receive the required data files using layouts and file transmission protocols prescribed by the State.
- A.30. The Contractor shall ensure compliance with current National Automated Clearinghouse Association, NACHA requirements and be able to receive and process all incoming electronic payments that are NACHA compliant.
- A.31. The Contractor shall notify the obligor and seek the replacement of checks and money orders returned to the State due to insufficient funds, closed accounts, stop payment orders, damaged checks, or other reasons. However, the Contractor shall bear no liability for the State's receipt of checks and money orders returned to the State due to insufficient funds, closed accounts, stop payment orders, damaged checks, or other reasons
- A.32. The Contractor shall establish and maintain appropriate accounting and administrative controls, policies, procedures, and records in keeping with Generally Accepted Accounting Principles ("GAAP").
- A.33. The Contractor shall have an annual Statement on Standards for Attestation Engagements (SSAE) Number 16 review performed by an independent public accounting firm at the Contractor's expense, and provide a copy of the report and opinion letter resulting from such review to the State.
- A.34. The Contractor shall produce the following reports regarding child support collections and maintain these reports on a website accessible by the State for the duration of the contract:
- a. A weekly report showing an item count and dollar amount of payment documents received and an item count and dollar amount of payment documents processed and deposited. Said report shall be formatted so that information is presented for each day of the week.
  - b. A weekly report showing the total number and dollar amount of unidentified payments.
  - c. A monthly report summarizing all other reports.
  - d. A detailed description of the steps taken to identify any receipts that are forwarded to the State's Suspense.
- All report formats shall be approved by the State. The Contractor shall submit weekly reports every Sunday through Saturday by Wednesday of the following week. The Contractor shall submit monthly reports are to be submitted by the fifteenth (15<sup>th</sup>) of the following month.

#### Customer and Employer Payment Information Operation

- A.35. The Contractor shall be responsible for providing a telephone system adequate to meet the terms of this Contract.
- A.36. The Contractor shall be responsible for appropriate staff to answer calls transferred from the Voice Response System ("VRS") provided by the State to the Customer Payment Information Unit ("CPU"). For the purposes of this Contract, a "Voice Response System" shall be defined as a computer interface which synthesizes speech in order to respond to voice comments rather than input on keyboard or mouse.

- A.37. The Contractor shall, utilizing information within the State's Child Support Enforcement Program, field calls from customer and employers and provide responses with respect to:
- a. payment receipt and distribution
  - b. payment disbursement
  - c. address updates
  - d. provide services to employers to support income withholding and employer remittance activities.
  - e. validation and maintenance of Personal Identification Number ("PIN")
  - f. direct customers to online services
- A.38. The Contractor shall refer establishment or enforcement issues to the appropriate State Customer Service Unit as warranted.
- A.39. The Contractor shall, when referring inquiries to the local IV-D Child Support worker, use the prescribed messaging process (an automated method for sending alerts to workers) in the State's Child Support Enforcement Program and procedures established by the State.
- A.40. The Contractor shall notify the State's contact, in accordance with Section D.2., in writing via e-mail within twenty-four (24) hours after receiving a complaint against the Contractor, DHS, a local child support office, or other DHS Contractor. The Contractor shall forward all complaints against DHS, a local child support office, or other DHS Contractor, to the State's contact within twenty-four (24) hours. The Contractor shall investigate and satisfactorily respond to complaints against the Contractor within twenty-four (24) hours, and provide the State with a copy of the response. If the Contractor is unable to satisfactorily respond within twenty-four (24) hours, the Contractor shall provide the State with a schedule for resolving the complaint. The State, at its sole discretion, shall revise or reject the Contractor's schedule and direct other time frames or methods of resolution of the complaint.
- A.41. The Contractor shall create an explanatory case note on the State's Child Support Enforcement Program case log for each phone call received for which there is a case on the system. The Contractor shall create a case note even if the call is transferred to the State or to another entity.
- A.42. The Contractor shall update the State's Child Support Enforcement Program data as specified by the State.
- A.43. Reporting The Contractor shall track customer service inquiries and maintain data in order to provide a management report containing, at a minimum, the following information:
- a. number of calls received
  - b. number of calls abandoned
  - c. number of calls answered
  - d. number of calls resolved on-line on the initial call and percentage completion rate
  - e. average caller wait time
  - f. volume of calls per Judicial District
  - g. report by problem category
  - h. number of calls transferred to State Customer Service or the local IV-D office

The Contractor shall provide the management report required by this Section to the State on a weekly basis, unless other specified by the State. Said management reports shall be maintained on a Web-site accessible by State staff during the Term of the Contract.

- A.44. Performance Standards The Contractor shall meet the performance standards set out in Sections A.44.a. through A.44.d. for operation of its CPU.
- a. The Contractor shall ensure a phone wait time of no longer than two (2) minutes, based on an average of all calls on hold per week.
  - b. The Contractor shall resolve a minimum of ninety percent (90%) of all issues on the initial call, based on an average of all calls per week.
  - c. The Contractor shall provide follow-up calls on all issues not resolved on the initial call within twenty-four (24) hours of receipt of the initial call to advise caller of the status of the issue.
  - d. The Contractor shall provide follow-up calls to the caller every three (3) days until the issue is resolved.
- A.45. The Contractor shall provide appropriate language assistance to ensure equal program participation. Callers shall be advised by the Contractor of the availability of interpreter services, at no cost.
- A.46. The Contractor shall provide appropriate assistance for the hearing impaired.
- A.47. The Contractor will encourage callers to use the Voice Response System, the Child Support Online Services website, and the public website to obtain information. The CPU will appropriately redirect callers to the Child Support Online Services website to reduce reliance on the CPU customer services for routine customer inquiries and other services provided on the Child Support Online Services.
- A.48. The Contractor shall locate its SDU Operations within bordering counties of Davidson County, Tennessee, and shall locate its CPU operations within the continental United States.
- A.49. Contract Services Transition. Upon termination of this Contract for any reason (expiration or termination), the Contractor shall assist the State in ensuring that there is an orderly transfer of responsibility and/or continuity of those services required under the terms of the Contract to an organization designated by the State.
- a. The Contractor shall deliver, Free On Board ("FOB") destination, all records, documentation, reports, data, hard copy and electronic files, recommendations, etc., which were required to be produced under the terms of the Contract to the State and/or the State's designee promptly and with due diligence after receipt of the written request. Electronic files shall be delivered in a Tagged Image File Format ("TIFF"), Portable Document Format ("PDF"), or other format as may be required by the State, based on instructions supplied to the Contractor at least forty-five (45) days prior to the required delivery date.
  - b. The Contractor shall discontinue providing the service or accepting new assignments under the terms of this Contract, on the date specified by the State, in order to ensure the completion of such service prior to the termination of the Contract.
  - c. The Contractor shall, upon request of the State, help to provide an understanding of the State Disbursement Unit (SDU) for any potential future Contractor.
  - d. At the term of this contract or as directed by the State, the Contractor shall destroy all confidential data acquired in the performance of this contract (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology Special Publication 800-88. The Contractor also shall sanitize all Contractor-

supplied processing equipment used in the performance of this contract, including multifunction print devices in accordance with Section E.2.g.4. and the current version of NIST publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) Business Days after destruction.

A.50. Contractor's Financial Responsibility for Overpayments or Misdirected Payments

The Contractor shall be financially responsible for all overpayments or misdirected payments applied to and disbursed to the customer determined by the State to be caused by negligence or other acts of the Contractors or Contractor's staff or agents.

- a. The State shall notify the Contractor in writing of the amount of the overpayments or misdirected payments as initially determined by the State, and will review the amount with the Contractor within ten (10) Business Days of the date of the notice.
- b. The State shall notify the Contractor in writing of the State's final determination of the amount of the overpayments or misdirected payments subsequent to the review.
- c. Upon final determination of the amount of overpayments or misdirected payments, reimbursement to the State by the Contractor of the amount of overpayments or misdirected payments may be made by the State's withholding the amount of such overpayments or misdirected payments from any future invoice or invoices for services provided to the State under this contract, until the total of all overpayments under this contract are reimbursed to the State.
- d. The State may, at its discretion, permit the Contractor to reimburse the State directly for the amount of overpayments or misdirected payments; provided, such direct payment by the Contractor shall be made within thirty (30) days of the date of notice by the State to the Contractor following final determination by the State. If, in such case(s), direct payment is not made within thirty (30) days of the date of notice to the Contractor, the State may then withhold the amount of such overpayments or misdirected payments from any future invoice or invoices for services provided to the State.
- e. If overpayments or misdirected payments occur at such time that reimbursement of the full amount of the overpayments or misdirected payments cannot be made from withholding amounts due in any future invoices, the Contractor shall reimburse the State directly for the full amount of the overpayment or misdirected payments within thirty (30) days of the date of written notice to the Contractor of the final determination by the State.
- f. Nothing herein shall limit the State's remedies for breach or such other legal remedies that may be available to the State for the recovery of overpayments or misdirected payments resulting from the negligence or other acts of Contractor or Contractor's staff or agents.

A.51. Notice of Organizational Change / Financial Status Information

- a. The Contractor shall immediately notify the State in writing of a proposed merger, acquisition or sale of its business operation, or the part of its business operation that provides services under this Contract, or that this Contract will be sold to or assumed by another entity.
- b. The Contractor's notification, as described in this Section, shall provide to the State information regarding the date and terms of the merger, acquisition or sale, including specifically, but not limited to, adequate documentation of the financial solvency and adequate capitalization of the proposed new entity, or the entity which proposes to acquire the Contractor's business operation, or the part of any business operations of the Contractor that provides services to fulfill any obligations arising under this Contract or the entity to which the Contract itself will be sold or which will otherwise assume the obligations of the Contract.

- c. The Contractor shall provide evidence of financial solvency and adequate capitalization of the proposed new entity by merger or with which Contractor has merged or the entity that will acquire or has acquired the original Contractor or the Contract itself, that shall consist of, at a minimum, but is not limited to:
  - i. Debt;
  - ii. Assets;
  - iii. Liabilities
  - iv. Cash flow;
  - v. Percentage of the total revenues of the company that are represented by this Contract;
  - vi. The most recent annual financial reports;
  - vii. The most recent annual financial reports filed with government agencies, if applicable.
- d. The new entity or the entity that has acquired the original Contractor or the part of the original Contractor that provided services under this Contract or has assumed the Contract itself shall provide to the State within ten (10) Business Days of the State's request, a notarized statement signed by an individual authorized to bind the new or acquiring entity certifying that all liabilities and obligations incurred by the former entity are assumed by the new entity or the entity that has acquired the original Contractor or that part of the original Contractor's business that provided services under this Contract or that has assumed the contract itself.
- e. Within ten (10) Business Days of the State's request, the new or acquiring entity shall provide to the State a complete narrative description of the relationship of any new entity to any parent company or subsidiary or division resulting from the merger, acquisition or sale of the original Contractor's business or the part of the original Contractor's business that provides services under this Contract or from assumption by, or sale to, another entity of the contract itself, and shall provide:
  - i. A statement on company letterhead regarding the names and positions of corporate or company officers, project managers, other Contractor management staff with responsibilities under the Contract, and numbers and the type of technical or other personnel who will be responsible for fulfilling the obligations of the Contract, and any subcontracts that will be used to provide any personal or other services under the Contract by the new entity or acquiring company; and,
  - ii. An organizational chart clearly describing the organizational structure of the new or acquired or acquiring entity and its status as a new entity, parent company, subsidiary, division or other unit of the entity or parent company with which it has merged or by which it, or the Contract, has been acquired.
- f. The Contractor shall provide to the State, within ten (10) Business Days of the request by the State, such additional evidence of financial solvency, adequate capitalization and information regarding corporate organizational and personnel assigned to the Contract as it determines is necessary to evaluate the status of the proposed or consummated merger, acquisition or sale.
- g. If the merger or acquisition or sale has occurred without prior notice to the State, the entity that results from the merger or that has acquired the Contractor's business operations, or the part of the business operations that provide services under this Contract, shall provide the information required by subparagraphs a.-f.
- h. The financial information referenced in subparagraph c. shall be provided by the Contractor to the State upon request of the State within ten (10) Business Days of said request.

- i. The original Contractor shall immediately notify the State in writing in the event of a change in its legal name and/or Federal Employer Identification Number (FEIN), shall provide to the State certified copies of any documents that have been filed with state corporate records officials or other officials in the state of its incorporation that verify the name change and the Contractor shall provide a narrative description on company letterhead of the reasons for the name change.
- j. Notwithstanding any other provisions of this Contract to the contrary, the State may immediately terminate this Contract in whole or in stages in the event that it determines that the original Contractor or the new entity resulting from the merger, acquisition, sale of all or part of the original Contractor's business providing services under this Contract, or that the entity that purchases the Contract and that will be providing the services required by this Contract, is, in the State's sole discretion, unacceptable for any reason, or the State determines, in its sole discretion, that it has failed to provide the information required by this paragraph E.26. The Contractor or the new entity or the entity that acquires all or part of the original Contractor's business or that assumes the Contract shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

A.52. The State shall:

- a. provide a Voice Response System (VRS) and transfer appropriate calls to the Contractor;
- b. offer telephonic interpreting services for Limited English Proficiency clients at no charge to clients;
- c. provide access to State applications, e-mail accounts and data resources, as necessary and approved by the State, subject to applicable State policies and procedures;
- d. provide an internet accessible, secure file transfer protocol (SFTP) account for file exchange;
- e. provide train-the-trainer training on the use of the State's automated Child Support Enforcement Program; and
- f. provide a post office box in Nashville, Tennessee for the purposes of receiving child support payments;

A.53. Excepting official State holidays, the State shall provide Contractor access to the State's Child Support Enforcement Program processing from 7:00 a.m. Central Standard Time to 6:00 p.m. Central Standard Time, Monday through Thursday than 7:00 a.m. to 5:30 p.m. on Friday.

A.54. Background Investigation Requirements. A background investigation shall be conducted by the State on all prospective contract employees, as well as those with whom the Contractor sub-contracts, whose duties will or may involve access to Federal Tax Information ("FTI"), defined herein as tax return or tax return information received directly from the U.S. Department of Treasury, Internal Revenue Service ("IRS") or obtained through an authorized secondary source such as Social Security Administration ("SSA"), U.S. Department of Health and Human Services, Office of Child Support Enforcement ("OCSE"), or another entity acting on behalf of the IRS pursuant to 26 U.S.C. 6103.

All prospective contract employees and/or contractors, whose duties will or may include access to FTI, shall consent to the following background investigation prior to accessing FTI:

- a. Federal Bureau of Investigations (FBI) fingerprint background check;
- b. Local law enforcement background check (including but not limited to the State of Tennessee and/or locations where the applicant has lived, worked and/or attended school within the last five (5) years);
- c. Citizenship/residency checks to verify new applicant's eligibility to legally work in the United States (e.g., a United States citizen or foreign citizen with the necessary authorization) through E-Verify.

All prospective contract employees' background checks will be evaluated in accordance with the Department of Human Services' Employee Fingerprint and Criminal Background Investigations policy for suitability determination. Specific requirements and procedures for these checks are detailed in TDHS policy. The background check may not be necessary if the State has a valid background investigation on file within the past ten years regarding the contract or sub-contract employee.

Background check information will be sent directly to the State, and the State shall be responsible for the cost of conducting background checks.

- A.55. Contractor access must be limited in accordance with IRC 6103(l)(6)(B)(ii) and Publication 1075 section 5.5 for the purposes of establishing and collecting child support obligations.

**B. TERM OF CONTRACT:**

This Contract shall be effective on March 1, 2019 ("Effective Date"), and ending on February 29, 2024 ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **Written Dollar Amount (\$Number)** ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
  - b. The Contractor shall be compensated based upon the following payment methodology.

Goods or Services Description	Amount (per compensable increment)
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SDU Transaction Fee Contract Year 1 (March 1, 2019 –February 29, 2020)	\$NUMBER per receipt processed
SDU Transaction Fee Contract Year 2 (March 1, 2020 –February 28, 2021)	\$NUMBER per receipt processed
SDU Transaction Fee Contract Year 3 (March 1, 2021 –February 28, 2022)	\$NUMBER per receipt processed
SDU Transaction Fee Contract Year 4 (March 1, 2022 –February 28, 2023)	\$NUMBER per receipt processed
SDU Transaction Fee Contract Year 5 (March 1, 2023 –February 29, 2024)	\$NUMBER per receipt processed
Annual Customer Payment Information Operation Contract Year 1 (March 1, 2019 – February 29, 2020)	\$NUMBER per Contract Year
Annual Customer Payment Information Operation Contract Year 2 (March 1, 2020 – February 28, 2021)	\$NUMBER per Contract Year
Annual Customer Payment Information Operation Contract Year 3 (March 1, 2021 – February 28, 2022)	\$NUMBER per Contract Year
Annual Customer Payment Information Operation Contract Year 4 (March 1, 2022 – February 28, 2023)	\$NUMBER per Contract Year
Annual Customer Payment Information Operation Contract Year 5 (March 1, 2023 – February 29 2024)	\$NUMBER per Contract Year

- c. The Contractor shall be compensated by payment of a Transaction Fee for each receipt created and processed within the State Disbursement Unit as set forth above. Such Transaction Fees will be paid monthly in an amount equal to the number of receipts processed within a given month times the Transaction Fee rate. Specified above for the month in which the transactions are processed.
- d. The Contractor shall be compensated for Customer Service Unit Operation on a monthly basis with each payment to equal to one-twelfth (1/12) of the Payment Rate for the Contract Year.

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month and no later than thirty (30) days after goods or services have been provided to the following address:

[CSVendor.Invoices.DHS@tn.gov](mailto:CSVendor.Invoices.DHS@tn.gov)

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
  - (1) Invoice number (assigned by the Contractor);
  - (2) Invoice date;
  - (3) Contract number (assigned by the State);
  - (4) Customer account name: Tennessee Department of Human Services; Child Support
  - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);

- (6) Contractor name;
- (7) Contractor Tennessee Edison registration ID number;
- (8) Contractor contact for invoice questions (name, phone, or email);
- (9) Contractor remittance address;
- (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
- (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
- (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
- (13) Amount due for each compensable unit of good or service; and
- (14) Total amount due for the invoice period.

b. Contractor's invoices shall:

- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
- (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
- (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
- (4) Include shipping or delivery charges only as authorized in this Contract.

c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. MANDATORY TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Krista Gray, Program Manager  
 Department of Human Services  
 400 Deaderick Street, Citizen's Plaza Bldg. 14<sup>th</sup> Floor  
 Nashville, TN 37243  
 Krista.Gray@tn.gov  
 Telephone # 615-313-4742  
 FAX # 615-524-3044

The Contractor:

**Contractor Contact Name & Title**  
**Contractor Name**  
**Address**  
**Email Address**  
 Telephone # **Number**  
 FAX # **Number**

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all

conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment B, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys fees, court costs, expert witness fees, and other litigation expenses or the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.
- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
  - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
  - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising

from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

- D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
  - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f. below), which includes Attachments A, B, and C;
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
  - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
  - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment

activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self-insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) Business Days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to

give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

**The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.**

a. Commercial General Liability (“CGL”) Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).  
The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers’ Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers’ compensation and employer liability insurance, the Contractor shall maintain:
  - i. Workers’ compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
  - i. The Contractor employs fewer than five (5) employees;
  - ii. The Contractor is a sole proprietor;
  - iii. The Contractor is in the construction business or trades with no employees;
  - iv. The Contractor is in the coal mining industry with no employees;
  - v. The Contractor is a state or local government; or

- vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

d. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance

- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in an amount not less than ten million dollars (\$10,000,000) per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.
- 2) Such coverage shall include data breach response expenses, in an amount not less than ten million dollars (\$10,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder. The policy shall contain an affirmative coverage grant for contingent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content / information provided.

e. Crime Insurance

- 1) The Contractor shall maintain crime insurance, which shall be written on a "loss sustained form" or "loss discovered form" providing coverage for third party fidelity, including cyber theft and extortion. The policy must allow for reporting of circumstances or incidents that may give rise to future claims, include an extended reporting period of no less than two (2) year with respect to events which occurred but were not reported during the term of the policy, and not contain a condition requiring an arrest or conviction.
- 2) Any crime insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate. Any crime insurance policy shall contain a Social Engineering Fraud Endorsement with a limit of not less than two hundred and fifty thousand dollars (\$250,000).

- 3) This insurance may be written on a claims-made basis, but in the event that coverage is cancelled or non-renewed, the Contractor shall purchase an extended reporting or "tail coverage" of at least two (2) years after the Term

D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

**E. SPECIAL TERMS AND CONDITIONS:**

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.

E.2. Confidentiality of Records The Contractor agrees that strict standards of confidentiality of records shall be maintained in accordance with State and Federal law and regulations (Reference TCA Sections 71-1-131, 71-3-119, 45-10-101 et seq., 45-10-118, and 50-7-701, 45 Code of Federal Regulations Sections 205.50, 303.21, and 307.13; 26 U.S.C. Section 6103(f); 42 U.S.C. Sections 653, and 1320b-7), and all other applicable State and Federal laws regulations and any and all data-sharing agreements between the Tennessee Department of Human Services and the Federal Government, specifically including, but not limited to, the SDS-BENDEX-SVES for 1137 and/or Child Support Benefit Programs Data Matching Agreement between the Social Security Administration and the Tennessee Department of Human Services.

- a. All material and information provided to the Contractor by the State or acquired by the Contractor on behalf of the State from any non-public source whether verbal, written, electronic data, magnetic tape, cards or otherwise shall be regarded as confidential information in accordance with the provisions of State and Federal law and ethical standards and shall not be disclosed, except as otherwise permitted by law, regulation or court order, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with Federal and State law and ethical standards.
- b. The Contractor further agrees that any information provided by the State relative to applicants or recipients of public assistance is to be used only for the administration of this Contract or in any investigation, prosecution, or criminal, administrative or civil proceeding conducted pursuant to this Contract. The Contractor agrees to provide safeguards to restrict the use or disclosure of any information concerning such applicants or recipients to purposes stated in this Section.
- c. The safeguards so provided shall also prohibit disclosure to any legislator, legislative or other committee or legislative body, investigator, attorney, or prosecutor of any information which identifies by name or address any such applicant or recipient, except as otherwise permitted by law.
- d. The Contractor agrees that any Federal or State tax related information will be treated as confidential as set forth in this Section, and will be used solely for purposes of administering the child support program, unless otherwise required by law.
- e. It shall be the Contractor's responsibility to ensure that any destruction of confidential information, as described in this Section, will be accomplished in a manner consistent with State policy and Federal regulations pertaining to the destruction of private or confidential data. Confidential information shall be destroyed completely by a method that assures complete obliteration, removal, or destruction to preclude recognition or reconstruction of the confidential information.

- f. The Contractor's obligations under this Section do not apply to information: in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.
- g. In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees and approved subcontractors with the following requirements regarding Federal Tax Information (FTI):
  - (1) All work will be done under the supervision of the Contractor or the Contractor's employees and approved subcontractors.
  - (2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer, employee or approved subcontractor of the Contractor is prohibited.
  - (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
  - (4) The Contractor certifies that the data processed during the performance of this Contract will be completely purged from all data storage components of his or her computer facility; no output will be retained by the Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
  - (5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or its designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
  - (6) All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the system must have the following minimum requirements: a security policy, accountability, assurance, and documentation. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
  - (7) No work involving Federal tax information furnished under this Contract will be subcontracted without prior written approval from the State.
  - (8) The Contractor will maintain a list of staff having authorized access. Such list will be provided to the State upon request and, upon request, to the IRS reviewing office.
  - (9) The State will have the right to void the Contract if the Contractor fails to provide the safeguards described above.

- h. Criminal /Civil Sanctions: Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as five thousand dollars (\$5,000.00) or imprisonment for as long as five (5) years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than one thousand dollars (\$1,000.00) with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as one thousand dollars (\$1,000.00) or imprisonment for as long as one (1) year, or both, together with the costs of prosecution. Such person shall also notify each officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of one thousand dollars (\$1,000.00) for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC Section 7213A and 7431.

Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(l)(1), which is made applicable to Contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a Contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully disclosed the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000.00).

- i. Inspection: The IRS and the State shall have the right to send its officers and employees into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this Contract. On the basis of such inspection, specific measures may be required in cases where the Contractor is found to be non-compliant with Contract safeguards.
- j. The Contractor agrees, and understands, that access to FTI must be preceded by certification that all personnel of the Contractor and its subcontractors understand security policy and procedures for safeguarding IRS information. Training provided prior to initial certification, and annually thereafter, must include, but not be limited to, Incident Response policy and procedures for reporting unauthorized disclosures and data breaches. Further, the Contractor agrees that all personnel of the Contractor, and all personnel of subcontractors performing services under this Contract for the Contractor,

authorized to handle Federal tax related information will sign, annually, an IRS Confidentiality Form, to be provided by the State, with the original signed forms to be maintained by the Contractor, along with a current list of its employees, and those of its subcontractors, performing services under this Contract. These IRS Confidentiality Forms, and the list of Contractor's employees and those of its subcontractors performing services under this Contract, shall be made available to the State and the IRS upon request.

- k. It is expressly understood and agreed the obligations set forth in this Section shall survive the termination of this Contract.

### E.3. Contractor Hosted Services Confidential Data, Audit, and Other Requirements

- a. "Confidential State Data" is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:

- (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.
- (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 validated encryption technologies.
- (3) The Contractor and the Contractor's processing environment containing Confidential State Data shall either (1) be in accordance with at least one of the following security standards: (i) International Standards Organization ("ISO") 27001; (ii) Federal Risk and Authorization Management Program ("FedRAMP"); or (2) be subject to an annual engagement by a CPA firm in accordance with the standards of the American Institute of Certified Public Accountants ("AICPA") for a System and Organization Controls for service organizations ("SOC") Type II audit. The State shall approve the SOC audit control objectives. The Contractor shall provide proof of current ISO certification or FedRAMP authorization for the Contractor and Subcontractor(s), or provide the State with the Contractor's and Subcontractor's annual SOC Type II audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor or Subcontractor.

If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating whether the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor's opinion in the most recent audit report.

No additional funding shall be allocated for these certifications, authorizations, or audits as these are included in the Maximum Liability of this Contract.

- (4) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. "Processing Environment" shall mean the combination of software and hardware on which the Application runs. "Application" shall mean the computer code that supports and accomplishes the State's requirements as set forth in this Contract. "Penetration Tests" shall be in the form of attacks on the Contractor's computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment's features and data. The "Vulnerability Assessment" shall be designed

and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Processing Environment.

- (5) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State
- (6) Upon termination of this Contract and in consultation with the State, the Contractor shall destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology ("NIST") Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.

b. Minimum Requirements

- (1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State's Enterprise Information Security Policies as amended periodically. The State's Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
- (2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

c. Comptroller Audit Requirements

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.

The information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor's or Subcontractor's information systems and applications and include controls over security management, access controls, configuration management, segregation of duties, and contingency planning. Application controls are directly related to the application and help ensure that transactions are complete, accurate, valid, confidential, and available. The audit shall include the Contractor's and Subcontractor's compliance with the State's Enterprise Information Security Policies and all applicable requirements, laws, regulations or policies.

The audit may include interviews with technical and management personnel, physical inspection of controls, and review of paper or electronic documentation.

For any audit issues identified, the Contractor and Subcontractor(s) shall provide a corrective action plan to the State within 30 days from the Contractor or Subcontractor receiving the audit report.

Each party shall bear its own expenses incurred while conducting the information technology controls audit.

- d. Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations ("Business Continuity Requirements"). Business Continuity Requirements shall include:
    - (1) "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
      - i. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: twenty-four (24) hours
      - ii. Recovery Time Objective ("RTO"). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: twenty-four (24) hours
    - (2) The Contractor shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A "Disaster Recovery Test" shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State's RPO and RTO requirements. A "Data Set" is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recover Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements.
- E.4. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of Tenn. Code Ann. §§ 12-7-101, *et. seq.*, shall be printed pursuant to this Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. § 12-7-103 (d).
- E.5. Intellectual Property Indemnity. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall

not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

- E.6. Software License Warranty. Contractor grants a license to the State to use all software provided under this Contract in the course of the State's business and purposes.
- E.7. Software Support and Maintenance Warranty. Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.
- E.8. Extraneous Terms and Conditions. Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.
- E.9. Transfer of Ownership of Custom Software Developed for the State.

a. Definitions.

- (1) "Contractor-Owned Software," shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial "off-the-shelf" software which is not developed using State's money or resources.
- (2) "Custom-Developed Application Software," shall mean customized application software developed by Contractor for the State under this Contract intended to function with the Contractor-Owned Software or any Work Product provided under this Contract.
- (3) "Rights Transfer Application Software," shall mean any pre-existing application software and documentation owned or supplied by Contractor or a third party necessary for the use, functioning, support, or maintenance of the Contractor-Owned Software, the Custom-Developed Application Software, Third Party Software, and any Work Product provided to State.
- (4) "Third-Party Software," shall mean software supplied by Contractor under this Contract or necessary for the functioning of any Work Product not owned by the State or the Contractor.
- (5) "Work Product," shall mean all deliverables such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor for the State under this Contract. Work Product shall include Rights Transfer Application Software.

b. Rights and Title to the Software

- (1) All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license or transfer of rights or ownership granted under this Contract. Contractor grants the State a perpetual non-exclusive license to the Contractor-Owned Software to be used solely with the Custom-Developed Application Software and the Work Product.
- (2) Contractor shall provide the source code in the Custom-Developed Application Software, Work Product and the Contractor-Owned Software, with all subsequent modifications, enhancements, bug-fixes or any other changes in the source code of the Work Product and the Contractor-Owned Software and all other code and

documentation necessary for the Custom-Developed Application Software to be installed and function as intended and as set forth in this Contract, to the State.

- (3) Contractor may lease or sell the Custom-Developed Application Software to third parties with the written permission of the State, which permission may be conditioned on the State receiving royalties from such sales or licenses.
- (4) All right, title and interest in and to the Custom-Developed Application Software, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Custom-Developed Application Software, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Custom-Developed Application Software, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Custom-Developed Application Software. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.
- (5) All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license or other rights granted to the State under this Contract or otherwise.

- c. The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.

E.10. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less reasonable wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.

E.11. Public Accountability. If the Contractor is subject to Tenn. Code Ann. §§ 8-4-401, *et seq.*, or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about Contractor's operation of the service program. The Contractor shall also display in a prominent place, located near the passageway through which the public enters in order to receive contract-supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating the following:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY THAT YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

The sign shall be of the form prescribed by the Comptroller of the Treasury. The contracting state agency shall request copies of the sign from the Comptroller of the Treasury and provide signs to contractors.

- E.12. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.13. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  - c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- E.14. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to Solicitation 34513-32119 (RFP Attachment 6.2 Section B.15) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

- E. 15. Liquidated Damages.

If Contractor fails to perform services in accordance meet any one or more of the Liquidated Damages Event(s) specified in Attachment A (Liquidated Damages Events and Amounts) of this Contract ("Liquidated Damages Event) the State may assess damages on Contractor ("Liquidated Damages").

The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The Parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for Contractor's failure to

fulfill its obligations regarding the Liquidated Damages Event as these amounts are likely to be uncertain and not easily proven. Contractor has carefully reviewed the Liquidated Damages contained in Attachment A and agrees that these amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of a Liquidated Damages Event, and are a reasonable estimate of the damages that would occur from a Liquidated Damages Event. The Parties agree that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or any other sections of this Contract.

The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity.

- E16. Partial Takeover of Contract. The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a "Partial Takeover"). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State's exercise of a Partial Takeover shall not alter the Contractor's other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State's exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State's exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.
- E.17. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.
- E.18. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from

the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law.

- E.19. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

a. Reporting of Total Compensation of the Contractor's Executives.

- (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:
  - i. 80 percent or more of the Contractor's annual gross revenues from federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and
  - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):
  - i. Salary and bonus.
  - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with

respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

- iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
  - v. Above-market earnings on deferred compensation which is not tax qualified.
  - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
  - c. If this Contract is amended to extend the Term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the term extension becomes effective.
  - d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

**IN WITNESS WHEREOF,**

**CONTRACTOR LEGAL ENTITY NAME:**

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**CONTRACTOR SIGNATURE**

**DATE**

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**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

**DEPARTMENT OF HUMAN SERVICES:**

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**DANIELLE BARNES, COMMISSIONER**

**DATE**



## Liquidated Damages Events and Amounts

	Liquidated Damages Event	Liquidated Damages Amount	
1.	Failure to submit a Security Plan within twenty (20) calendar days following the start date of the contract. (Reference Section A.6.)	One Thousand Dollars (\$1,000.00) per each calendar day more than 20 calendar days after the Effective Date that the Contractor fails to submit a Security Plan	<p>Failure to comply with 1075 Safeguarding Requirements will result in state and federal audit findings and/or loss of federal funding and/or incentives for the agency.</p> <p>IRC Sec.7431 of the 1075 defines damages, equal or greater to \$1,000 for each act of unauthorized inspection or disclosure.</p>
2.	Failure to submit a Tested Disaster Recovery Plan by May 30, 2019. (Reference Section A.7.)	One Thousand Dollars (\$1,000.00) per each calendar day after May 30, 2019, the Contractor fails to submit a Tested Disaster Recovery Plan	<p>As outlined in the National Institute of Standards Technology Publication 800-34 Contingency Planning Guide for Federal Technology (NIST), a plan is required to restore service and operability of the target system, application, or computer facility infrastructure at an alternate site after an emergency. Not having a disaster recovery plan in place can result in data breaches of agency and client information and failures to disburse child support payments in 2 Business Days as required by 45 CFR 302.32(f) .</p> <p>IRC Sec.7431 of the 1075 defines damages, equal or greater to \$1000 for each act of unauthorized inspection or disclosure.</p>
3.	Failure to transmit collections and correspondence information electronically to the State's Child Support Enforcement Program by 5:00 p.m. Central Time. (Reference Section A.13.)	One Thousand Dollars (\$1,000.00) per hour that collections information data is not transmitted.	<p>45 CFR 302.32(f) requires that payments to the family be disbursed within 2 Business Days. Failure to do so will result in noncompliance of Federal Regulations. 45 CFR 1356.86 - Penalties for noncompliance. Penalty for not meeting file submission standards will assess a penalty in an amount equivalent to two and one half percent (2.5%) of the funds subject to a penalty for each reporting period.</p>
4.	Failure to meet or exceed timeliness standards for identification of payments containing insufficient information. (Reference Section A.20.b.)	Per month, wherein the timeliness standards are not met, effective April 1, 2019.	<p>45 CFR 302.32(f) requires that payments to the family be disbursed within 2 Business Days. Failure to do so will result in noncompliance of Federal Regulations.</p> <p>45 CFR 1356.86 - Penalties for noncompliance. Penalty for not meeting file submission standards will assess a penalty in an amount equivalent to two and one half percent (2.5%) of the funds subject to a penalty for each reporting period.</p> <p>Further, undo enforcement actions can be taken if obligors payment is not credited against the court ordered obligation.</p>

**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>EDISON VENDOR IDENTIFICATION NUMBER:</b>	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

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**CONTRACTOR SIGNATURE**

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

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**PRINTED NAME AND TITLE OF SIGNATORY**

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**DATE OF ATTESTATION**

## ACRONYMS/DEFINITIONS

Term	Definition
Business Day	Business day is defined as any day other than a Saturday, Sunday or State-recognized legal Holiday between the hours of 7:00 a.m. to 4:30 p.m. central time.
Business Continuity Plan	Business continuity planning is the process of creating systems of prevention and recovery to deal with potential threats to a company. Any event that could negatively impact operations is included in the plan, such as supply chain interruption, loss of or damage to critical infrastructure.
Child Support Enforcement System	Child Support management system of current and historical child support case information. The software application known as TCSES (Tennessee Child Support Enforcement System) is a mainframe software application.
CPU – Customer Payment Information Unit	CPU refers to the unit responsible for providing customer service via telephone and other methods of communication, to customers, stakeholders, or partners (including CP's and NCP's, employers, Court Offices, interstate and other various state agencies or departments), requiring assistance in determining status, providing information to, or assistance in understanding the financial conditions related to a child support case.
Daily Receipt Transmission File	Accounting records electronically transferred for payments received and receipted by the contractor.
Disaster Recovery Plan	Documented process or set of procedures to recover and protect a business IT infrastructure in the event of a disaster. Such a plan, ordinarily documented in written form, specifies procedures an organization is to follow in the event of a disaster.
FBI – Federal Bureau of Investigations	The official mission of the Federal Bureau of Investigations (FBI) is to uphold the law through the investigation of violations of federal criminal law; to protect the United States from foreign intelligence and terrorist activities.
FOB – Free on Board	Included or assuming delivery without charge to the buyer's named destination
FTI – Federal Tax Information	Any identifying information as described in the Internal Revenue Service Publication 1075 that relates to information on a tax return.
Information Recovery Period	Ten day research time to identify payments that do not contain or provide sufficient case or obligor information to be able to credit against the correct court ordered support due.
Insufficient Information	Payments presented to be applied towards a support order that does not have adequate information to identify the obligor and oblige
IRS – Internal Revenue Service	The Internal Revenue Service (IRS) is a U.S. government agency responsible for the collection of taxes and enforcement of tax laws.
IV-D Child Support Enforcement	IV-D case" means any case in which the child support

	enforcement agency is enforcing the child support order pursuant to Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended.
NACHA – National Automated Clearinghouse Association	A non-profit membership association charged with overseeing the Automated Clearing House (ACH) system, which operates one of the largest, safest and most reliable payment systems in the world.
NCP – Non Custodial Parent	Parent who does not have physical custody of his or her minor child by the result of a child custody determination.
NIST – National Institute of Standards and Technology	The National Institute of Standards and Technology is a physical sciences laboratory, and a non-regulatory agency of the United States Department of Commerce. Its mission is to promote innovation and industrial competitiveness
Online Services	An online service refers to any information and services provided over the Internet or through a portal. These services not only allow subscribers to communicate with each other, but they also provide unlimited access to information.
Operation	The administration of business practices to create the highest level of efficiency possible within an organization. It is concerned with converting materials and labor into goods and services as efficiently as possible to maximize the profit of an organization.
Obligor	Obligor means the party legally responsible for paying child support pursuant to a court order.
Obligee	Obligee means the party who is owed child support pursuant to a court order of support
OCSE – Office of Child Support Enforcement	OCSE is the federal government agency that oversees the national child support program.
PCI – Payment Card Industry	Payment Card Industry is the segment of the financial industry that governs the use of all electronic forms of payment.
PCI – Security Standards Council	PCI Security Standards Council is a global forum for the industry that collaborates to develop, enhance, disseminate and assist with the understanding of security standards for payment account security.
PDF – Portable Document Format	The Portable Document Format (PDF) is a file format used to present documents, including text formatting and images, in a manner independent of application software, hardware, and operating systems.
PMBOK – Project Management Body of Knowledge	PMBOK is an American National Standards Institute (ANSI) standard for project management methodologies
Postdated	Date on payment method set in the future
Processing	Processing means the workflow and activities involved from the receipt of mail from the US Post Office or electronic transactions from a Financial Institution until the payment is posted to the child support system.
Restrictively	A restrictive endorsement is a control technique used to restrict further action in regard to a financial instrument (usually a check). The result of a restrictive endorsement is that a financial instrument is no longer a negotiable

	instrument that can be passed from the stated payee to a third party.
SDU – State Disbursement Unit	<p>SDU is a division within Human Services, Child Support responsible for centralized collection of child support in Tennessee, in compliance with federal and state requirements.</p> <p>The SDU is established pursuant to the federal government's Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (P.L. 104-193).</p>
Security Plan	The purpose of the system security plan (SSP) is to provide an overview of the security requirements of the system and describe the controls in place or planned responsibilities and expected behavior of all individuals who access the system.
Suspense Processing	Suspense means a payment cannot be identified and is prevented from being applied against a court ordered obligation until further research has been conducted to identify the correct obligor and obligee.
Transaction Fee	Expense to be paid each time a receipt is created and processed.
TIFF – Tagged Image File Format	Common format for exchanging graphics/ images between application programs.
VRS – Voice Response System	A voice response system (VRS) is a computer interface which responds to voice commands, instead of responding to inputs from a mouse or a keystroke. It is a type of speech synthesis where sentences are organized by concatenating pre-recorded words saved in a database.